



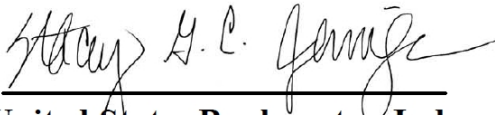
CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 6, 2021


United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Case No. 19-34054-SGJ-11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Chapter 11
	§	
Reorganized Debtor.	§	
<hr/>		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Adversary No.: 21-03007-sgj
HCRE PARTNERS, LLC (n/k/a NEXPOINT	§	
REAL ESTATE PARTNERS, LLC),	§	
	§	
Defendant.	§	

**ORDER APPROVING STIPULATION AND AGREED ORDER GOVERNING
DISCOVERY AND OTHER PRE-TRIAL ISSUES**

Upon consideration of the *Stipulation and Agreed Order Governing Discovery and Other Pre-Trial Issues* [Docket No. 62] (the “Stipulation”)¹ entered into between Highland Capital

¹ Capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Stipulation.

Management, L.P., the reorganized debtor² (“Highland”) in the above-captioned chapter 11 case (“Bankruptcy Case”) and the plaintiff in the above-captioned adversary proceeding (the “Adversary Proceeding”), and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC) (“NREP”, and together with Highland, the “Parties”), it is **HEREBY ORDERED THAT**:

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. The Stipulation supersedes any prior stipulation or scheduling order governing the Adversary Proceeding.

3. The Parties shall abide by the following pretrial schedule (the “Joint Pretrial Schedule”) pursuant to the Stipulation:

- NREP will have until August 30, 2021 to answer or otherwise respond to the First Amended Complaint.
- The Parties will serve written discovery demands (limited to new claims and allegations in the First Amended Complaint) by September 3, 2021.
- The Parties will respond to discovery requests by September 27, 2021 and will also be substantially complete with document production by September 27, 2021.
- Fact depositions will take place between October 1 and October 22, 2021.
- Expert designations and disclosures of all opinions, and the bases therefor, will be made by October 29, 2021, and experts will be deposed between October 29, 2021 and November 8, 2021.

4. The Parties agree that discovery taken in this case will be consolidated with discovery taken in the following adversary proceedings, and all discovery in each of the adversary proceedings will be treated as if it was taken in all of the adversary proceedings listed below so

² On February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Docket No. 1943] (the “Confirmation Order”) which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, as modified (the “Plan”). The Plan went Effective (as defined in the Plan) on August 11, 2021, and Highland is the Reorganized Debtor (as defined in the Plan) since the Effective Date. See *Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 2700].

that each witness will only need to be deposed once and documents produced in any of the proceedings are usable as if received in every other proceeding:

- *Highland Capital Management, L.P. v. James D. Dondero*, Adv. Pro. No. 21-03003;
- *Highland Capital Management, L.P. v. Highland Capital Management Fund Advisors, L.P.*, Adv. Pro. No. 21-03004;
- *Highland Capital Management, L.P. v. NexPoint Advisors, L.P.*, Adv. Pro. No. 21-03005; and
- *Highland Capital Management, L.P. v. Highland Capital Management Services, Inc.*, Adv. Pro. No. 21-03006.

5. The Joint Pretrial Schedule set forth in this Order shall only be modified in writing signed by the Parties or upon entry of an order of the Court entered upon notice to the Parties.

6. The Court shall retain jurisdiction over all disputes arising out of or otherwise governing the interpretation and enforcement of this Order.

###End of Order###

EXHIBIT A

RECITALS

WHEREAS, on **June 3, 2021**, NREP filed a Motion to Withdraw the Reference.

WHEREAS, on **July 14, 2021**, the Bankruptcy Court filed its *Report and Recommendation to District Court Proposing that it (A) Grant Defendant's Motion to Withdraw the Reference at Such Time as Bankruptcy Court Certifies that Action is Trial Ready; and (B) Defer Pretrial Matters to Bankruptcy Court* [**Docket No. 44**] (the "Report").

WHEREAS, the Debtor has indicated that it intends to file a First Amended Complaint, asserting additional claims against NREP, as well as claims against new defendants, Nancy Dondero and The Dugaboy Investment Trust.

WHEREAS, the Parties intend to complete fact and expert discovery in this adversary proceeding as governed by this Stipulation.

STIPULATION

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE PARTIES HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. This Stipulation supersedes any prior stipulation or scheduling order governing the above-referenced adversary proceeding.
2. The Parties agree to the following deadlines regarding discovery and other pre-trial deadlines:
 - The Parties agree that the Debtor will file and NREP will not oppose a Motion for Leave to File First Amended Complaint by August 17, 2021, a copy of which has previously been provided by the Debtor to NREP. Counsel for NREP will accept service of the First Amended Complaint on behalf of NREP and the additional defendants named in the First Amended Complaint.
 - NREP will have until August 30, 2021, to answer or otherwise respond to the First Amended Complaint.
 - The Parties will serve written discovery demands (limited to new claims and allegations in the First Amended Complaint) by September 3, 2021.

- The Parties will respond to discovery requests by September 27, 2021 and will also be substantially complete with document production by September 27, 2021.
- Fact depositions will take place between October 1 and October 22, 2021.
- Expert designations and disclosures of all opinions and the bases therefor, will be made by October 29, 2021, and experts will be deposed between October 29, 2021 and November 8, 2021.

3. The Parties agree that discovery taken in this case will be consolidated with discovery taken in the following adversary proceedings and all discovery in each of the adversary proceedings will be treated as if it was taken in all of the adversary proceedings listed below, so that each witness will only need to be deposed once and documents produced in any of the proceedings are usable as if received in every other proceeding:

- *Highland Capital Management, L.P. v. James D. Dondero*, Adv. Pro. No. 21-03003;
- *Highland Capital Management, L.P. v. Highland Capital Management Fund Advisors, L.P.*, Adv. Pro. No. 21-03004;
- *Highland Capital Management, L.P. v. NexPoint Advisors, L.P.*, Adv. Pro. No. 21-03005; and
- *Highland Capital Management, L.P. v. Highland Capital Management Services, Inc.*, Adv. Pro. No. 21-03006.

IT IS SO STIPULATED.

Dated: August 17, 2021

CONSENTED AND AGREED TO BY:

/s/ Michael P. Aigen

Deborah Deitsch-Perez
Texas State Bar No. 24036072
Michael P. Aigen
Texas State Bar No. 24012196
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**ATTORNEYS FOR DEFENDANT
NEXPOINT REAL ESTATE
PARTNERS, LLC AND NANCY
DONDERO**

/s/ John A. Morris

John A. Morris
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(*pro hac vice*)
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**ATTORNEYS FOR DEBTOR
HIGHLAND CAPITAL MANAGEMENT,
L.P.**

/s/ Douglas S. Draper

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**ATTORNEYS FOR THE DUGABOY
INVESTMENT TRUST**

CERTIFICATE OF SERVICE

I certify that on August 17, 2021, a true and correct copy of the foregoing document was served via the Court's Electronic Case Filing system to the parties that are registered or otherwise entitled to receive electronic notices in this case.

/s/ Michael P. Aigen

Michael P. Aigen

United States Bankruptcy Court
Northern District of Texas

Highland Capital Management, L.P.,
Plaintiff
HCRE Partners, LLC (n/k/a NexPoint Real,
Defendant

Adv. Proc. No. 21-03007-sgj

CERTIFICATE OF NOTICE

District/off: 0539-3

User: mmathews

Page 1 of 2

Date Rcvd: Sep 07, 2021

Form ID: pdf001

Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 09, 2021:

Recip ID	Recipient Name and Address
ust	+ Cheryl Wilcoxson, US Trustee, 1100 Commerce St., Ste. 976, Dallas, TX 75242-0996

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+ Email/Text: ustregion06.ty.ecf@usdoj.gov	Sep 07 2021 22:58:00	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231
ust	+ Email/Text: ustregion07.hu.ecf@usdoj.gov	Sep 07 2021 22:58:00	US Trustee, Office of the US Trustee, 515 Rusk Ave, Ste 3516, Houston, TX 77002-2604
ust	+ Email/Text: ustregion06.da.ecf@usdoj.gov	Sep 07 2021 22:58:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996

TOTAL: 3

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust		Sandra Nixon, U.S. Trustee
ust		mario zavalá
ust	*±	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231

TOTAL: 2 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 09, 2021

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

District/off: 0539-3

User: mmathews

Page 2 of 2

Date Rcvd: Sep 07, 2021

Form ID: pdf001

Total Noticed: 4

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on September 7, 2021 at the address(es) listed below:

Name	Email Address
Deborah Rose Deitsch-Perez	on behalf of Defendant James Dondero deborah.deitschperez@stinson.com patricia.tomasky@stinson.com;kinga.mccoy@stinson.com
Deborah Rose Deitsch-Perez	on behalf of Defendant HCRE Partners LLC (n/k/a NexPoint Real Estate Partners, LLC) deborah.deitschperez@stinson.com, patricia.tomasky@stinson.com;kinga.mccoy@stinson.com
Deborah Rose Deitsch-Perez	on behalf of Defendant Nancy Dondero deborah.deitschperez@stinson.com patricia.tomasky@stinson.com;kinga.mccoy@stinson.com
Douglas S. Draper	on behalf of Defendant The Dugaboy Investment Trust ddraper@hellerdraper.com dhepting@hellerdraper.com;vgamble@hellerdraper.com;mlandis@hellerdraper.com;gbrouphy@hellerdraper.com
Greta M. Brouphy	on behalf of Defendant The Dugaboy Investment Trust gbrouphy@hellerdraper.com dhepting@hellerdraper.com;vgamble@hellerdraper.com
Juliana Hoffman	on behalf of Creditor Committee Official Committee of Unsecured Creditors jhoffman@sidley.com txefilingnotice@sidley.com;julianna-hoffman-8287@ecf.pacerpro.com
Leslie A. Collins	on behalf of Defendant The Dugaboy Investment Trust lcollins@hellerdraper.com
Matthew A. Clemente	on behalf of Creditor Committee Official Committee of Unsecured Creditors mclemente@sidley.com matthew-clemente-8764@ecf.pacerpro.com;efilingnotice@sidley.com;ebromagen@sidley.com;alyssa.russell@sidley.com;dtwomey@sidley.com
Michael P. Aigen	on behalf of Defendant HCRE Partners LLC (n/k/a NexPoint Real Estate Partners, LLC) michael.aigen@stinson.com, stephanie.gratt@stinson.com
Paige Holden Montgomery	on behalf of Creditor Committee Official Committee of Unsecured Creditors pmontgomery@sidley.com txefilingnotice@sidley.com;paige-montgomery-7756@ecf.pacerpro.com;crognes@sidley.com;ebromagen@sidley.com;efilingnotice@sidley.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com

TOTAL: 11